

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

In re CASSAVA SCIENCES INC.
SECURITIES LITIGATION

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Master File No. 1:21-cv-00751-DAE

CLASS ACTION

This Document Relates to:

ALL ACTIONS

**MOTION REQUESTING EVIDENTIARY HEARING ON PLAINTIFFS'
OPPOSED MOTION FOR CLASS CERTIFICATION**

REQUEST FOR EVIDENTIARY HEARING

The class certification proceedings in this case raise novel, complex issues that would benefit from an evidentiary hearing. Such hearings are common in this context. *E.g.*, *Edwards v. McDermott Int’l, Inc.*, 2024 WL 1769325 (S.D. Tex. Apr. 24, 2024); *Shannon v. Allstate Ins. Co.*, 2024 WL 1080915 (W.D. Tex. Jan. 31, 2024); *Marcus v. J.C. Penney Co., Inc.*, 2016 WL 8604331 (E.D. Tex. Aug. 29, 2016); *Erica P. John Fund, Inc. v. Halliburton Co.*, 309 F.R.D. 251 (N.D. Tex. 2015); *see also Unger v. Amedisys, Inc.*, 401 F.3d 316, 322-23 (5th Cir. 2005). The parties have submitted hundreds of pages of expert reports in connection with Plaintiffs’ Opposed Motion for Class Certification, with numerous exhibits and appendixes. The Court would benefit from hearing from the parties’ counsel and witnesses live, with each side permitted to cross-examine the other side’s witnesses. The Court also would benefit from questioning the parties’ experts directly. Accordingly, Defendants request that an evidentiary hearing be set on Plaintiffs’ Opposed Motion for Class Certification.

In that vein, Defendants’ expert, Dr. Rene Stulz, prepared a further report responding to the criticisms and inaccuracies introduced in the Rebuttal Report of Plaintiffs’ expert, Dr. Steven Feinstein. Defendants also deposed Dr. Feinstein regarding the contents of his rebuttal report. Consistent with the Court’s order dated September 19, 2024, which instructed that Defendants’ Surreply not introduce “any new evidence,” Defendants did not cite that report or deposition transcript in their Surreply. *See* ECF 219. Defendants submit, however, that Dr. Stulz’s response to Dr. Feinstein’s rebuttal report would aid the Court’s consideration of Plaintiffs’ Opposed Motion for Class Certification. *See Georgia Firefighters’ Pension Fund v. Anadarko Petroleum Corp.*, 99 F.4th 770, 773 (5th Cir. 2024) (holding district court abused its discretion by denying motion for leave to file surreply and accompanying expert report). At an evidentiary hearing, Dr. Stulz could testify and answer the Court’s questions regarding the contents of this report.

Dr. Stulz's report is attached as Exhibit A to the accompanying Affidavit of Scott Campbell, which also was filed with Defendants' Surreply.

Dated: October 7, 2024

Respectfully submitted,

/s/ Gregg Costa

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CERTIFICATE OF SERVICE

The undersigned certifies that on October 7, 2024, a true and correct copy of the foregoing was served electronically upon each attorney of record.

/s/ Gregg Costa

Gregg Costa